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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,435

08/04/2006

Bernd Winkler

5255-100PUS

8398

27799

7590

04/28/2009

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EXAMINER

MILLER, WILLIAM L

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,435	Applicant(s) WINKLER, BERND	
	Examiner William L. Miller	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-25 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 26-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060804</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The preliminary amendment filed 08-04-2006 has been entered.
2. Claims 18-32 are pending.
3. Acknowledgement is made of the amendment to the specification.
4. The replacement sheet of drawings, namely sheet 4/5, has been approved by the examiner.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 18 and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by DE10023761 (hereinafter “DE761”).
7. Regarding claim 18, DE761 discloses a slide channel for a door closer, comprising: a guide rail 82 for guiding a slide member connected to the door closer; and a cover element 83 lining the guide rail.
8. Regarding claim 21, wherein the guide rail has a generally C- shaped cross section (see Fig. 2).
9. Regarding claim 22, wherein the cover element has two open ends, and a U-shaped cross section with two free ends (see Fig. 2).

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10. Regarding claim 23, wherein the cover element is held in place on the guide rail by a positive snap connection (see Fig. 2).
11. Regarding claim 24, wherein the positive snap connection comprises two snap recesses in the guide rail, and two snap cams protruding inward from the respective free ends of the cover element and engaging the respective snap recesses (see Fig. 2).
12. Regarding claim 25, wherein the cover element has an “extruded” profile.
13. Claims 18-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by DE19642275 (hereinafter “DE275”).
14. Regarding claim 18, DE275 disclose a slide channel for a door closer, comprising: a guide rail 1 for guiding a slide member connected to the door closer; and a cover element 2 lining the guide rail.
15. Regarding claim 19, wherein the guide rail has two opposite open ends, the slide channel further comprises two fixing parts 8 which close the respective open ends of the guide rail.
16. Regarding claim 20, wherein each of the fixing parts has an end wall facing an outside of the slide channel and the end wall being planar in shape, and wherein the cover element extends to the plane of the end wall (see Fig. 4).
17. Regarding claim 21, wherein the guide rail has a generally C-shaped cross section (see Fig. 3).
18. Regarding claim 22, wherein the cover element has two open ends, and a U-shaped cross section with two free ends (see Fig. 3).
19. Regarding claim 25, wherein the cover element has an “extruded” profile.

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20. Claims 18, 21, 22, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by WO98/49419 (hereinafter “WO419”).

21. Regarding claim 18, WO419 discloses a slide channel for a door closer, comprising: a guide rail 3 for guiding a slide member connected to the door closer; and a cover element 32 lining the guide rail.

22. Regarding claim 21, wherein the guide rail has a generally C- shaped cross section (see Fig. 3).

23. Regarding claim 22, wherein the cover element has two open ends, and a U-shaped cross section with two free ends.

24. Regarding claim 25, wherein the cover element has an “extruded” profile.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE761.

27. Regarding claims 30 and 31, it is unclear if the DE761 slide channel is sized to extend over an entire width of a door associated with the door closer, and if the slide channel further has a length which is equal to a length of the door closer. If not, it would have been an obvious design choice to modify DE761 by modifying the width and length dimensions of the slide channel to meet the above claimed dimensions since it has been held that discovering an

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optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

28. Regarding claim 32, it is unclear if the DE761 cover element is made of aluminum, stainless steel, or plastic material as claimed by the applicant. If not, it would have been an obvious design consideration to modify the DE761 cover element to one of the above materials for the inherent material properties thereof as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

29. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE275.

30. Regarding claims 30 and 31, it is unclear if the DE275 slide channel is sized to extend over an entire width of a door associated with the door closer, and if the slide channel further has a length which is equal to a length of the door closer. If not, it would have been an obvious design choice to modify DE275 by modifying the width and length dimensions of the slide channel to meet the above claimed dimensions since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

31. Regarding claim 32, it is unclear if the DE275 cover element is made of aluminum, stainless steel, or plastic material as claimed by the applicant. If not, it would have been an obvious design consideration to modify the DE275 cover element to one of the above materials for the inherent material properties thereof as the selection of a known material based upon its

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suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

32. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO419.

33. Regarding claims 30 and 31, it is unclear if the WO419 slide channel is sized to extend over an entire width of a door associated with the door closer, and if the slide channel further has a length which is equal to a length of the door closer. If not, it would have been an obvious design choice to modify WO419 by modifying the width and length dimensions of the slide channel to meet the above claimed dimensions since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

34. Regarding claim 32, it is unclear if the WO419 cover element is made of aluminum, stainless steel, or plastic material as claimed by the applicant. If not, it would have been an obvious design consideration to modify the WO419 cover element to one of the above materials for the inherent material properties thereof as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Allowable Subject Matter

35. Claims 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William L. Miller/
Primary Examiner, Art Unit 3677